

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MENTAL HYGIENE LEGAL SERVICE,

Plaintiff,

- against -

ELIOT SPITZER, in his official capacity as Governor of the State of New York, ANDREW CUOMO, in his official capacity as Attorney General of the State of New York, MICHAEL HOGAN, in his official capacity as Commissioner of the New York State Office of Mental Health, DIANA JONES RITTER, in her official capacity as Commissioner of the New York State Office of Mental Retardation and Developmental Disabilities, and BRIAN FISCHER, in his official capacity as Commissioner of the New York State Department of Correctional Services,

Defendants.

Docket Number 07-CV-2935  
(GEL) (AJP)

NOTICE OF DEFENDANTS' MOTION TO DISMISS  
INTERVENOR-PLAINTIFF SHAWN SHORT

TO:

MARVIN BERNSTEIN  
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PLEASE TAKE NOTICE that defendants ELIOT SPITZER, Governor of New York State; ANDREW CUOMO, Attorney General of New York State; MICHAEL HOGAN, Commissioner of the Office of Mental Health; DIANA JONES RITTER, Commissioner of the Office of Mental Retardation and Developmental Disabilities; and BRIAN FISCHER, Commissioner of the New York State Department of Correctional Services, will move before this Court, before the Honorable Gerard E. Lynch, United States District Judge, at the United States Courthouse, United States District Court for the Southern District of New York, located at 500 Pearl Street, New York, New York 10007, at a date and time to be determined by the Court, for an Order pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure dismissing the Intervenor Complaint of Shawn Short as moot, together with costs, disbursements, attorneys' fees, and such other and further relief as the Court may deem just and proper under the circumstances.

PLEASE TAKE FURTHER NOTICE that in support of their motion, Defendants shall rely upon the accompanying Declaration of Geoffrey B. Rossi, Esq., dated July 11, 2008, with the exhibits attached thereto, Defendants' Memorandum of Law in Support of Motion To Dismiss Intervenor-Plaintiff Shawn Short, dated July 17, 2008, the Intervenor-Complaint, and all prior papers and proceedings herein.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 6.1(b) of the Local Rules of

the United States District Courts for the Southern District of New York and the Eastern District of New York and to the individual practices of the Honorable Gerard E. Lynch, United States District Judge (which require that two courtesy copies of all motion papers should be submitted to chambers at the time that reply papers, if any, are served), three copies of Plaintiff's answering papers, if any, should be served upon the undersigned no later than July 31, 2008, and Defendants' reply papers, if any, will be served upon counsel for Plaintiff no later than August 7, 2008.

Dated: New York, New York  
July 17, 2008

ANDREW M. CUOMO  
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*Attorney for Defendants*

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